

## **MINUTES**

### **BOARD OF ADJUSTMENT**

### **TOWNSHIP OF BERKELEY HEIGHTS, NEW JERSEY**

Conference and Regular Meeting

November 14, 2013

The Conference and Regular Meeting of the Board of Adjustment was called to order at 7:30 PM in the Public Meeting Room.

It was confirmed that the meeting was being held in conformance with all regulations of the SUNSHINE LAW and proper notice had been given to the Courier News; also, the Agenda had been posted in Town Hall, Board Office, and supplied to the Township Clerk at least forty-eight hours prior to the meeting. The Agenda items will not necessarily be heard in the order listed and the meeting will not continue significantly past 10:30 PM.

#### **Roll Call:**

Members present were Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia. Mr. Miller, Mr. Minkoff and Mrs. Granholm were absent. Mr. Daniel Bernstein, Board Attorney, was also present.

#### **Applications for Review:**

##### **App. #23-13: Michael & Kristin Cacicedo, 21 Willow Way, Block 1005, Lot 3 (R-15 Zone)**

Proposed principal addition results in Building Coverage being exceeded. As a result, relief is needed from Section 6.1.1B "Schedule of General Regulations." Also, existing nonconforming conditions are lot area, lot width and west side yard setback.

Kristin and Michael Cacicedo were sworn and stated that they are proposing an addition to their home.

Alexander Bol, architect, was sworn and accepted as an expert witness. Mr. Bol stated that the footprint of the house is being expanded and variances are being sought for lot coverage and building coverage which are two pre-existing non-conforming conditions. The lot size is 11,200 square feet where 15,000 square feet is required. The plan also includes an addition over the garage for a bedroom. Mr. Bol presented Exhibits A-1 through A-7 – photographs taken by him of the applicant's house and the neighboring houses including the view from the neighbors in the rear showing adequate yard space.

Discussion took place regarding the discrepancies in the dimensions shown on the plans and on the application and Mr. Bol will correct the numbers on the copies of the application.

In response to questions from the Board, Mr. Bol stated that the deck will be at ground level, a dry well will be put in for drainage, all materials will match and the property is not located in a special flood area.

Mr. Bol further stated that the lot coverage allowed is 1,680 square feet and the proposed coverage is 1,769 square feet. If the lot were 15,000 square feet then lot coverage of 2,200 would be allowed. He also stated that in his opinion the proposed addition will not be out of character with the rest of the neighborhood.

In response to further questions, Mr. Bol stated that the existing house has a basement but the area to be added will only have a crawlspace.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application.

A motion was made by Mr. Boyer, seconded by Mr. Delia, to approve Application #23-13: Michael & Kristin Cacicedo, 21 Willow Way, Block 1005, Lot 3 (R-15 Zone), subject to conditions as discussed and the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor. There were none opposed.

### **App. #24-13 Kim & Michael Vapenik, 96 Baker Avenue, Block 903, Lot 11 (R-15 Zone)**

Proposed principal addition over existing garage does not comply with front yard setback requirements. The plan calls for sidewalks to be added and the existing driveway widened by 2'. As a result, "other coverage" would increase from 14.27% to 15.98% (vs. 10% allowed in the R-15 Zone) and "total lot coverage" from 34.10% to 35.80% (vs. 25% allowed). Relief is needed from Section 6.1.1B, "Schedule of General Regulations" and Section 8.1.1B.1 and 8.1.1B.2 "Nonconforming Buildings and Uses." Other existing nonconforming conditions are lot area, lot width, lot depth, shed location, shed size, driveway location, and fence location. "Building," "other," and "total lot" coverages are exceeded with existing conditions.

Kim and Michael Vapenik were sworn and stated that they are proposing an addition to their home.

Carol Hewitt, architect, was sworn, gave her professional and educational background, and was accepted as an expert witness.

Ms. Hewitt stated that variances are being sought for front yard setback and lot coverage. The existing 10 x 12 oversized shed has been on the property since the house was purchased by the applicant in 2005 and it is located 5 feet from the property line where 10' is required. The lot size is 9,845 square feet where 15,000 is required, the lot width is 98.45 where 100 feet is required and the lot depth is 100 feet where 130 feet is required. The existing driveway is either on or over the property line where a 5' setback is required. These are all existing non-conformities that are not proposed to be changed. The proposed addition will create a master bedroom suite with a bathroom and they are also proposing to divide an existing large bedroom into two bedrooms.

Discussion took place regarding the front yard setback. The garage with the addition will have a 30' setback where 50' is required. The actual setback is 17.43' because of the front porch so the application should be changed since this is an expansion of a pre-existing non-conforming condition.

Ms. Hewitt stated that the existing driveway is just a little bit too small to fit two cars to be parked next to each other. They are proposing to change the direction of the stairs and increase the width by 2 feet. Ms. Hewitt presented Exhibit A – list of properties in the neighborhood with lot sizes and Exhibit A-2 – photo board containing photos of the applicant's house and the existing conditions and other houses in the neighborhood with similar setbacks.

Discussion took place regarding the amount of impervious coverage and what could be done to reduce it. It was suggested that pavers be used for the walkway.

In response to questions regarding the shed, Mr. Vapenik stated that the shed is in good condition and he does not know if it could be moved.

With regard to the fence and driveway, Mr. Bernstein noted that the Board expresses no opinion as to whether or not they encroach on the adjoining lots.

Ms. Hewitt stated that with respect to drainage the applicant will be willing to put in a dry well or a rain garden and will review that with the Township Engineer.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application.

A motion was made by Mr. Siburn, seconded by Mr. Smith, to approve Application #24-13 Kim & Michael Vapenik, 96 Baker Avenue, Block 903, Lot 11 (R-15 Zone), subject to the conditions discussed and the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor. There were none opposed.

### **App. #25-13 David Warde, 12 Elm Place, Block 2901, Lot 1,76 (R-20 Zone)**

Proposed residential storage shed 10' x 12' x 10' high would add 120 sq. ft. of "other" coverage to the existing nonconforming "other" coverage. (Allowed "other" coverage: 10%, existing: 10.13%; proposed: 10.78%) The requested location of the shed (7.5' from the property line) does not conform to the required rear yard accessory setback of 15.' Relief is needed from Section 6.1.1B "Schedule of General Regulations" and Section 6.3.1B.4. "Permitted Accessory Uses" because the shed size of 120 sq. ft. exceeds the 100 sq. ft. allowed. Existing nonconforming issues pertaining to this property are lot area, principal front yard setback and existing "other" coverage.

David Warde was sworn and stated that his property is located in Free Acres. He has received a letter from the Free Acres Association with regard to his proposed shed stating no objection. Mr. Warde presented Exhibit A-1 – photographs of the view of the house and the back yard showing that the proposed shed will not be an eyesore to the neighbors. Mr. Warde stated that he wants to have a 10 x 12 shed because he does not have a garage and he needs room for storage of his lawn mower, snow blower, generator and lawn furniture. A smaller shed would be problematic for him and he would not be able to move it to the left to provide the required setback.

Discussion took place regarding the proposed location of the shed and the size. The Board members expressed concerns about the oversized shed and stated they would prefer it to be 10 x 10. The applicant stated that he does not want to change the plan and he does not understand the Board's objection. His intention is to make it attractive and well-built and it to have it match the house.

**Open to Public**

The hearing was opened to the public for questions or comments regarding the application.

A motion was made by Mr. Boyer, seconded by Mr. Siburn, to approve Application #25-13 David Warde, 12 Elm Place, Block 2901, Lot 1,76 (R-20 Zone), subject to the condition that the shed will be built according to the construction details submitted to the Board and that there will be no running water or electricity, and also subject to the standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn, Mr. Sullivan and Mr. Delia voting in favor. There were none opposed.

**App. #14-13: The Lusardi Group, 50 Industrial Road, Block 1301, Lot 14.01 (LI Zone)**

Applicant is seeking conditional use approval to park its tractor trailer moving trucks overnight at the rear of the property. Since all conditions of the conditional use will not be met, Zoning Board approval is required. (Tractor trailers are not allowed under Section 7.1.5.K.7. of the ordinance.) The applicant is also proposing to create a parking area in the front yard for staff and customers which is not permitted in the LI Zone. The new parking area would result in "other coverage" and "combined coverage" limits being exceeded. Finally, the application includes a free-standing sign in the front yard (not permitted as per Section 5.4.3.).

Roger Mehner, attorney representing the applicant, advised that the applicant has eliminated the free standing sign from the plans.

Michael Mistretta, Township Planner, was sworn and accepted as an expert witness. Mr. Mistretta stated that the plans have been reviewed and the applicant has complied with all of his recommendations.

Mr. Mistretta stated that he reviewed the application with regard to the location of the parking lot in the front yard, the landscaping plan and the required number of parking spaces. Per the ordinance, a total of 62 parking spaces are required and there are presently 57 striped on the property. There is more than sufficient space in the rear for another 5 parking spaces and he would recommend that those 5 spaces be striped in the rear to avoid the need for a variance. There is

one handicapped space in the front and two in the rear and he requested that the applicant's engineer confirm that 3 handicapped spaces are sufficient.

Mr. Sullivan left the meeting (8:55 p.m.).

Mr. Mistretta indicated the location of the stop sign and do not enter sign and stated that he reviewed the lighting details and they are satisfactory. He recommended that the lighting go off at about one hour after the end of business operations. He further noted that a tree replacement plan will be required and that a variance is required for the size of the vehicles. He is satisfied with the information provided with regard to drainage and landscaping.

Donald Lusardi, partner and president of Lusardi Group, the owner of the building, was sworn, and stated that the front parking lot will not need lighting much after hours and the back parking lot will have security lighting. They will agree to going from normal lighting to security level lighting at 6:30 p.m. The applicant also agreed that there will be a requirement for the landscaping to be maintained.

William Hollows, engineer, was sworn and accepted as an expert witness. Mr. Hollows stated that the existing truck parking stalls are 10' wide and they will be restriped to 12' and five striped spaces will be added in the rear of the property. He believes that the three handicapped spaces are sufficient. Mr. Hollows further stated that the drainage issues raised by Mr. Mistretta have been addressed and the applicant will comply with Mr. Mistretta's recommendations.

### **Open to Public**

The hearing was opened to the public for questions or comments regarding the application.

A motion was made by Mr. Delia, seconded by Mr. Siburn, to approve Application #14-13: The Lusardi Group, 50 Industrial Road, Block 1301, Lot 14.01 (LI Zone), subject to the conditions discussed and standard conditions that shall be set forth in a Resolution of Memorialization to be adopted by the Board at a future meeting. The voice vote was unanimous with Mr. Bussiculo, Mr. Boyer, Mr. Smith, Mr. Siburn and Mr. Delia voting in favor. There were none opposed.

**Adoption of Resolutions:**

**App.#20-13: William L. Gorski, 23 Roosevelt Avenue, Block 1302, Lot 3 (R-15 Zone)**

Sheds on property do not conform to Section 6.3.1.B.4. which limits the total area of the sheds to 100 square feet.

A motion was made by Mr. Smith, seconded by Mr. Siburn, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Smith and Mr. Siburn voting in favor.

**App. #21-13: Andrew Knapp, 134 Twin Falls Road, Block 4502, Lot 17 (R-20 Zone)**

Proposed second-story addition will not meet the required principal front-yard setbacks along both fronts of this corner lot. Relief is needed from Section 6.1.1B "Schedule of General Regulations." Relief is also needed from Section 8.1.1B.1. which prohibits the expansion of a nonconforming structure. Nonconforming conditions are lot area, lot depth, principal front-yard setback along both streets and size of existing shed (allowed: 100 sq. ft., existing 118 sq. ft.).

A motion was made by Mr. Siburn, seconded by Mr. Smith, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Smith, Mr. Siburn and Mr. Delia voting in favor.

**App. #22-13: Robert & Carla McGlynn, 41 Hampton Drive, Block 3205, Lot 4 (R-20 Zone)**

Proposed new front portico (6' x 6.5' in size) to be constructed over existing porch. Relief is needed from Section 6.1.1B "Schedule of General Regulations" for insufficient front-yard setback and exceeding the allowed building coverage. Existing nonconforming conditions are lot width and lot area.

A motion was made by Mr. Smith, seconded by Mr. Delia, to adopt the above Resolution. The voice vote was unanimous with Mr. Bussiculo, Mr. Smith, Mr. Siburn and Mr. Delia voting in favor.

**Approval of Minutes**

October 24, 2013 Regular Meeting

A motion was made by Mr. Siburn, seconded by Mr. Smith, and carried by unanimous voice vote to adopt the minutes of the October 24, 2013 Regular Meeting as presented.

**Adjournment:**

A motion was made by Mr. Delia, seconded by Mr. Boyer, to adjourn the meeting. The voice vote was unanimous and the meeting was adjourned at 9:13 PM.

Regina Giardina, Secretary Pro Tem